

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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NATIONWIDE SALES AND SERVICES INC. :
a corporation of the State of New York, :
: and :
IMIG, INC. :
a corporation of the State of New York, :
: Plaintiffs, : Case No.: 16-cv-6223-JMA-GRB
: -against- :
STEEL CITY VACUUM COMPANY :
DBA Steel City Vacuum Company Inc. :
a corporation of the Commonwealth of Pennsylvania, :
: Defendant. :
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STIPULATION, ORDER AND CERTIFICATION
PURSUANT TO FED. R. CIV. P. 54(b)

IT IS HEREBY STIPULATED and agreed, by and between the parties through their undersigned counsel, that:

- (1) On May 30, 2018, the Court issued a Memorandum and Order (the “Order”) granting Steel City Vacuum Company’s (“Steel City”) motion for summary judgment as to all claims brought by Plaintiffs. Dkt. 51
- (2) On June 26, 2018, the Clerk entered Judgment in favor of Steel City based on the Court’s Memorandum and Order and indicated that the “case is closed.” Dkt. 57.
- (3) Notwithstanding the Clerk’s Judgment, the Court’s Order did not adjudicate Steel City’s counterclaims (Dkt. 22) and therefore it “does not end the action.” See Fed. R. Civ. P. Rule 54(b).

- (4) With regard to the remaining counterclaims (Dkt. 22), the parties agree as follows:
- (i) Counts 1 and 2 of the counterclaims of defendant Steel City be, and hereby are, dismissed without prejudice;
- (ii) Counts 3 and 4 of Steel City's counterclaims (Dkt. 22) be, and hereby are, stayed pending further order of the Court; and
- (5) Pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, Plaintiffs Nationwide Sales and Services Inc. and Imig, Inc. ("Plaintiffs") seek the Court to direct entry of final judgment on all of Plaintiffs' claims and certification of that judgment for immediate appeal. There is no just reason for delay, and allowing the pending appeal to the United States Court of Appeals for the Federal Circuit, No. 2018-2116 to continue is in the interests of justice so that the rights of the parties with respect to all of Plaintiffs' claims may be finally determined. Steel City does not oppose Plaintiffs' request.

Dated: August 2, 2018

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*Attorneys for Defendant Steel City Vacuum
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SO ORDERED:

s/ Denis R. Hurley

Denis R. Hurley
U.S. District Judge